

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TERREL HOLMES,

Plaintiff,

v.

M. MUELLER,

Defendant.

Case No. 1:20-cv-00737-NODJ-HBK (PC)

ORDER SETTING SETTLEMENT
CONFERENCE AND SCHEDULING PRE-
CONFERENCE TELEPHONIC DISCUSSION

Settlement Statements Due: March 18, 2024
Telephonic Pre-Conference: March 22, 2024
Defendant: 10:00 AM and Plaintiff: 10:45 AM
Settlement Conference: March 29, 2024

This matter comes before the Court upon sua sponte review of the docket. The deadline to file dispositive motions has passed. (*See* Doc. No. 30, setting February 9, 2024 as deadline for motions for summary judgment). Before scheduling any civil matter for trial, the Court's Local Rules require the parties to engage in a settlement conference. *See* Local Rule 270(a). Absent any objection from either party,¹ Magistrate Judge Helena Barch-Kuchta will hold a settlement conference on **Friday, March 29, 2024 at 10:00 A.M.** Unless both parties request the conference to be in-person, the Court will conduct the settlement conference via video

¹ Because the undersigned is not the trial judge, the Court's Local Rules do not prohibit the undersigned from conducting the settlement conference. Local Rule 270(b). If any party requests that the conference not be conducted by the undersigned, the undersigned will refer it to another Magistrate Judge. *Id.*

conference. The Zoom settlement conference invitation will be distributed the week prior.²

Unless otherwise permitted in advance by the Court, the following individuals must attend the settlement conference in person: (1) the attorney(s) or pro se litigant who will try the case; and (2) individuals with full authority to negotiate and settle the case, on any terms.³ See Local Rule 270(f).

No later than Monday, March 18, 2024, each party must submit a settlement statement either by email to Judge Barch-Kuchta's chambers at hbkorders@caed.uscourts.gov or by mail to U.S. District Court, P.O. Box 575, Yosemite National Park, CA 95389. *The statement should neither be filed on the docket nor served on any other party.* In compliance with Local Rule 270(d)-(e), the undersigned will use the settlement statements to prepare for and conduct the settlement conference. The statements will not become part of the case file and will be shredded upon conclusion of the conference under Local Rule 270(e). If applicable, the statements should be marked "CONFIDENTIAL." See Local Rule 270(d).

The settlement statements should not exceed ten (10) pages, excluding exhibits and should include:

- (1) a brief recitation of the facts;
- (2) a discussion of the strengths/weaknesses of the case, including the parties' position on the factual and legal issues and review of any evidence to support the parties' position;
- (3) an itemized estimate of the expected costs for pretrial and trial in specific dollar terms;
- (4) your best estimate of the probability that plaintiff will prevail at trial;
- (5) your best estimate of what damages or relief plaintiff may recover should this case proceed to trial and plaintiff prevail (in specific dollar terms and/or injunctive relief, if applicable);
- (6) a history of settlement discussions (including a listing of any current settlement offers

² Any difficulties concerning Zoom video conference, or connecting to the Zoom video conference, shall immediately be reported to Patricia Apodaca, Courtroom Deputy for the Hon. Helena Barch-Kuchta, United States Magistrate Judge, at PApodaca@caed.uscourts.gov.

³ The Court permits the Senior Assistant Attorney General for CDCR to be available by telephone but the Deputy Attorney General must be able to communicate with the SAGG without delay throughout the duration of the settlement conference.

1 from any party, in specific dollar terms), a candid statement of your party's current position on
2 settlement, including **the amount that you will give/accept to settle** (in specific dollar terms),
3 and a statement of your expectations for settlement discussions;

4 (7) a list of the individuals who will be attending the settlement on the party's behalf,
5 including names and, if appropriate, titles; and

6 (8) no more than ten (10) pages of exhibits (not already filed in the docket) to the extent a
7 party believes the exhibits are relevant to their position.

8 Notwithstanding the provisions of Federal Rule of Evidence 408, all parties' statements
9 relating to the substance or merits of the case, whether written or oral, made for the first time
10 during the settlement conference will be deemed to be confidential and shall not be admissible in
11 evidence for any reason in the trial of the case, should the case not settle. This provision does not
12 preclude admissibility in other contexts, such as pertaining to a motion for sanctions regarding the
13 settlement conference.

14 Judge Barch-Kuchta will hold a short, pre-settlement conference telephone discussion
15 with each part Friday, **March 22, 2024 at 10:00 AM for defendant and at 10:45 AM for**
16 **plaintiff** (dial-in number: 1-888-204-5984; passcode: 4446176). Only the lead attorney from
17 each side⁴ should participate.

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19 Dated: February 21, 2024


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE

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28 ⁴ The Court expects that the attorneys participating in the telephone discussion will also participate in the settlement conference.